



United States Department of the Interior
Fish and Wildlife Service
Ecological Services
Carlsbad Fish and Wildlife Office
2730 Loker Avenue West
Carlsbad, California 92008



In Reply Refer To:
IWS-SDG-2779.2

SEP 10 2002

Mr. John Boccio
California Public Utilities Commission
c/o Environmental Science Associates
436 14th Street, Suite 600
Oakland, CA 94612

Re: Sempra Communications Application for a Certificate of Public Convenience and Necessity
Draft Program Environmental Impact Report. CPUC A.00-02-020 (SCH No.0200480)

Dear Mr. Boccio:

The U.S. Fish and Wildlife Service (Service), Carlsbad Fish and Wildlife Office, has reviewed the referenced draft Program Environmental Impact Report (EIR) regarding Sempra Communications' proposed Telecommunications Program (Program). The EIR does not address any specific construction project, network, or system, but rather is intended as a guide for planning and implementing telecommunications infrastructure and providing services throughout 15 counties in California. The EIR proposes several methods for installation of fiber optic cable and related facilities, and defines a process for individual project review as specific projects are identified in the future.

The Carlsbad Fish and Wildlife Office offers the following recommendations to assist you in planning for the preservation of sensitive wildlife species and habitat types within the project area, particularly in southern California, and to assist you in complying with pertinent Federal statutes and laws. Additional specific comments on the draft Program EIR are provided in the attached appendix.

1. We recommend that the final EIR include a discussion assessing how individual projects will be evaluated for consistency with regional conservation plans. In San Diego County, we are concerned how future projects will maintain consistency with MHCP (Multiple Habitat Conservation Program), MSCP (Multiple Species Conservation Plan), and NCCP (Natural Community Conservation Planning) design standards. We have similar concerns regarding regional habitat conservation planning efforts in Riverside and Orange counties. B-1
2. Due to the scope of this project, adequate conservation measures need to be taken to minimize fragmentation and maintain the regional distribution of vegetation communities. The final EIR should include an analysis of how project induced impacts may affect fragmentation and isolation of aquatic and terrestrial wildlife and plants at a local and regional scale. The B-2

Program should assure that offsite habitat conservation measures take place as close as possible to the area of project impacts. Potential offsite mitigation areas should be identified within each county, and should complement existing subarea plans and preserve areas.

B-2

3. The final EIR should include an analysis of how project induced impacts may introduce non-native invasive species into native vegetation communities. The Program should include guidelines for individual project Revegetation and Restoration Plans. Project specific mitigation plans should fully offset project related impacts, including proposals for mitigating the cumulative impacts of direct and indirect habitat loss, degradation, or modification. Project impacts should be mitigated through the preservation, restoration, or revegetation of affected habitat types consistent with NCCP guidelines. If restoration or revegetation is proposed, the objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Restoration and revegetation plans should be prepared by persons with specific expertise on the local ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used; (c) a schematic layout depicting the mitigation area; (d) time of year that planting will occur; (e) a description of the irrigation methodology to be employed; (f) measures to control exotic vegetation on-site; (g) a detailed monitoring program which includes provisions for replanting areas where planted materials have not survived; and (h) identification of the agency that will guarantee successful creation of the mitigation habitat and provide for the conservation of the restoration site in perpetuity.

B-3

4. We suggest that specific project review submittals include:

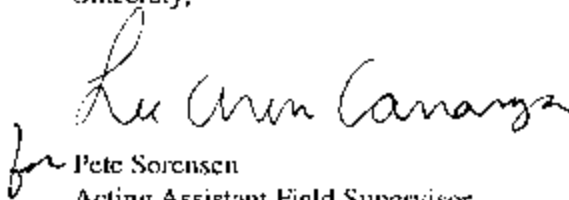
- A description of the biological resources associated with each habitat type in the project area. These descriptions should include both qualitative and quantitative assessments of the resources present within the project area, and include complete species lists for all biological resources.
- A list of federally proposed listed or candidate species, state listed and candidate species, and locally sensitive species including, but not limited to, narrow endemic species that are within the project area. A detailed discussion of these species, including information pertaining to their local status and distribution, should also be included.
- An assessment of direct, indirect, and cumulative project impacts to fish and wildlife species and associated habitats. All facets of the project (e.g., construction, implementation, operation, domestic pets, night lighting) should be included in this assessment.
- An analysis of the consequences of the project on the hydrology of any and all riparian or wetland communities within the sphere of influence of the project. Of particular importance is an analysis of the adequacy of proposed means to convey major flood or runoff flows without impacting or adding pollutants to vegetation off-site or the restoration area.

B-4

- Identification of methods to be employed to prevent discharge and disposal of toxic and/or caustic substances, including oil and gasoline, on the project site, especially during construction.
- Measures to be taken to perpetually protect habitat values, on-site and off-site, that are created during restoration (mitigation). Issues that should be addressed include, restrictions on vehicle and people access, proposed land dedications, monitoring and management programs, control of illegal dumping, and restrictions on lighting near mitigation areas, etc.

The Carlsbad Fish and Wildlife Office appreciates the opportunity to comment on the referenced draft Program EIR. If you have any questions regarding these comments and recommendations, please contact Sandra Marquez at (760) 431-9440.

Sincerely,


for Pete Sorensen
Acting Assistant Field Supervisor

cc: U.S. Fish & Wildlife Service, California/Nevada Office, Sacramento (Attn: Ken Sanchez)
California Department of Fish & Game, San Diego (Attn: William Tippetts)
California Department of Fish & Game, Chino Hills (Attn: Jeff Dronjeson)

The Carlsbad Fish and Wildlife Office offers the following specific comments on the draft Program EIR and the Mitigation Monitoring and Reporting Plan (Appendix B):

Program EIR:

page 3-33	The EIR concludes that no disturbance would occur to sensitive biological resources during construction of bridge attachments, however, the analysis does not consider indirect impacts such as noise.	B-5
page 3-42	Potential impacts to burrowing riparian animals, such as the federally listed arroyo toad, need to be considered when boring under stream crossings.	B-6
page 3-47	We recommend incorporating more extensive construction, maintenance, and operational protocols. Protocols should address: <ul style="list-style-type: none"> • vehicle staging and turn around areas • trash control • pets at the project site • designated parking areas, no parking or driving under oak trees to protect root structures • protocol to follow if previously unidentified protected species are found on site during project activities • compliance monitoring • use of pesticides • construction and design of new access roads to minimize impacts • emergency repairs 	B-7
page 4.4-8	The Sensitive Plant Communities and Associated Wildlife Habitats/Riparian Forest, Woodland and Scrub section, should include the federally listed least Bell's vireo and southwestern willow flycatcher.	B-8
page 4.4-13	The Critical Habitat for Listed Wildlife Species section should include discussion of the designated critical habitat for the least Bell's vireo and Otay tarplant.	B-9
page 4.4-35	Existing Conditions for San Diego County Region should include discussion of coastal bluffs and native grasslands.	B-10

Mitigation Monitoring and Reporting Plan (Appendix B):

BIO.1a	Specific project reviews should be conducted by local biologists, with knowledge of the native wildlife and vegetation in the project area.	B-11
BIO.1b	Biologists overseeing project activities both prior to, and during construction activities, should have 'stop work' authority.	B-12

BIO.1c	To minimize impacts of noise, include noise monitoring and barriers as needed.	B-13
	Revegetation efforts should include monitoring, exotic species removal, success criteria, and reseeding as necessary.	
BIO.2a	The level of pre-construction surveys that will be conducted needs to be defined. Protocol level surveys are required for some listed species.	B-14
BIO.3b	The size of the buffer zone around active nests needs to be specified and the boundary should be clearly marked at the project site.	B-15
	Noise monitoring should be required when there are potential impacts to active nests, and noise barriers should be constructed as needed.	B-16
BIO.4b	"If construction areas are located in paved roads or other highly disturbed ROW, exclusion fencing shall only be constructed around the construction areas when adjacent potential habitat for special-status burrowing mammals is within five feet of the work area." This mitigation measure may not adequately prevent potential impacts to some species that use disturbed areas and are sensitive to human activity, such as burrowing owls. The need to use exclusion fencing will vary according to the proposed construction activities and the species present, therefore no limitations for the use of exclusion fencing should be defined in the Program EIR, but rather the use of exclusion fencing should be determined during the specific project review period.	B-17

B. UNITED STATES FISH AND WILDLIFE SERVICE, CARLSBAD OFFICE, PETE SORENSEN – ACTING FIELD SUPERVISOR

B-1 In the Draft EIR on page 4.4-65, the document states that “Several multi-species HCPs are either under development or have been prepared in the general project region.” and that “...construction activities within undeveloped areas have the potential to conflict with HCPs.” The document states further on that page that “During development of a work plan, Sempra Communications will review local city and county policies, ordinance and *conservation plans*, and comply with all applicable requirements.” The evaluation for consistency with those plans will occur on a local level as they would with other projects of similar nature. The work plan submittal would include as part of the environmental checklist (Appendix A-Attachment B of the DEIR) a list of Habitat Conservation Plans or land management agency policies / regulations application to construction activities in the proposed work area (Environmental Checklist, p. 3). Further, Sempra Communications would be required to demonstrate compliance with said plans / policies / regulations prior to initiation of any construction work proposed in the submitted work plan. Compliance may be demonstrated in proposed work plans by including coordination documents, contact names, and / or compliance certification from the responsible agency. Upon submittal of the work plan to the CPUC, the information in the work plan will be reviewed for accuracy and compliance with the Program EIR prior to issuing a Notice to Proceed (NTP).

B-2 Although the scope of the project and the project area are quite large, substantial fragmentation and isolation of aquatic and terrestrial wildlife and plants are not anticipated from the project on either a local or regional scale. The activities proposed as part of the project include only impacts of temporary nature and complete avoidance of sensitive natural communities wherever feasible. As further discussed on page 4.4-62 of the DEIR under **Mitigation Measure BIO-10a** if avoidance of sensitive habitat is not feasible, only the minimum area necessary to complete the work will be subject to disturbance. Consultation with USFWS, CDFG, and other agencies, as applicable, will determine appropriate compensatory mitigation including habitat restoration, revegetation, conservation easements, and habitat replacement ratios both on-site and off-site. At the time of site-specific work plan submittals, appropriate consultation, as required under **Mitigation Measure BIO-10a** will assess how project impacts may affect fragmentation and isolation of habitat and the proper location of offsite mitigation areas. The Program EIR is not considered the proper avenue to address the potential offsite mitigation areas within each county as multiple areas may change over the life of the document. Therefore, as part of work plan submittal in compliance with Mitigation Measure 10a specifically, Sempra Communications will identify offsite mitigation areas within the county affected by the proposed work plan, and in coordination with responsible agencies, will identify ways in which the proposed offsite mitigation may complement existing subarea plans and preserve areas.

B-3 In compliance with **Mitigation Measure BIO-1c** on page 4.4-49 of the DEIR, when trenching installation occurs on land that is undeveloped, revegetation, where required as a site-specific mitigation measure, shall be accomplished through replacement of topsoil and native plant species, and erosion control measures must be in place prior to the first rain in the fall.

Also, as mentioned in response B-2 above, Sempra Communications will comply with provisions of approved local, regional, or state habitat conservation plans including implementation of mitigation through the preservation, restoration, or revegetation of affected habitat types consistent with those plan guidelines. To further address this comment, the CPUC will add the following language to **Mitigation Measure BIO-1c**:

Revegetation, where required as a site-specific mitigation measure, shall be accomplished through replacement of topsoil and native species, and erosion control measures must be in place prior to the first rain in the fall, or by October 15, whichever is earlier. Exceptions to this cut-off date may be applied for on a case by case basis subject to approval by the appropriate regulatory agency (i.e., CDFG, RWQCB). Revegetation and Restoration Plans will be prepared where applicable to fully offset project related impacts, including proposals for mitigating cumulative impacts of direct and indirect habitat loss, degradation, or modification. Where restoration or revegetation is proposed, the objective will be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Additionally, restoration and revegetation plans shall be prepared by persons with specific expertise on the local ecosystems and native plant revegetation techniques.

Additionally, the commentor provided recommendations (a) through (h) for inclusion in revegetation and restoration plans. Although the wording may be slightly different, the content and goals are generally the same as stated under **Mitigation Measure BIO-10a** on page 4.4-62 where the comparisons are as follows:

Commentor (a): the location of the mitigation site; DEIR: documentation of the type, size and location of the affected area;

Commentor (b): the plant species to be used; DEIR: procurement of appropriate plant materials, including a consideration of the use of local genetic stock;

Commentor (c) and (d): a schematic layout depicting the mitigation area and time of year that planting will occur; DEIR: planting plans showing the location, quantity and of container size of each species to be planted, and the timing and methods of installation;

Commentor (e): a description of the irrigation methodology to be employed; DEIR: irrigation plans, including water source, methods of delivery to each plant, timing and rate of application, criteria for removal of irrigation;

Commentor (f): measures to control exotic vegetation on-site and; DEIR: maintenance activities and schedule to ensure continued functioning of the irrigation system and removal of weeds;

Commentor (g): a detailed monitoring program which includes provision for replanting areas where planted materials have not survived; DEIR: establish monitoring to be conducted for the first year following planting, when plants are most vulnerable to drought stress, disease, damage from grazing or browsing, vandalism, etc.

The CPUC will add as a final bullet under **Mitigation Measure BIO-10a** Commentor (h): identification of the agency that will guarantee successful creation of the mitigation habitat and provide for the conservation of the restoration site in perpetuity; DEIR: identification of the people to be contacted for questions regarding the implementation for the mitigation plan, who also will be responsible for submittal of annual monitoring reports.

B-4 To fully execute the Environmental Checklist (DEIR Appendix A-Attachment B) required to accompany all work plans, Sempra Communications will provide information on both biological and hydrological resources as requested in detail in the checklist form. The CPUC will ensure that the environmental checklist is completed, including each of the bulleted items suggested by USFWS where appropriate for site specific work plans.

B-5 Page 3-33 in the DEIR provides a discussion of aerial facilities in the form of a bridge attachment. The supporting text indicates that bridge attachments are commonly used as a means to avoid unnecessary impacts to biological resources, however, the text does not infer that bridge attachments avoid all potential impacts to those resources, but that the method avoids those that are unnecessary. **Impact BIO-3** and corresponding mitigation measures **BIO-3a** and **BIO-3b** (p. 4.4-54 and 4.4-55) specifically address direct and / or indirect impacts to nesting birds or breeding bats from construction noise and adjacent activity that may result in nest/roost abandonment and loss of young.

B-6 On page 3-42 in the DEIR, the text will be revised to include the following language:

Special consideration would be given to installations involving boring under streams for which pre-construction biological resource surveys (completed as part of documentation of any subsequent activity) identified habitat suitability or occupation by burrowing riparian animals, such as arroyo toads.

B-7 The commentor suggested multiple protocols to incorporate as part of the project. Compliance monitoring is addressed extensively in the MMRP included as Appendix B of the DEIR including procedures for emergency events and repairs (p. B-12 and B-13). The following protocols will be added to “3.6.1 General Protocols for Potential Project Impacts” on p. 3-47 of the DEIR:

- Vehicles must be turned around in established or designated areas only.
- No pets of any kind will be permitted on the project site at any time.
- Designated parking areas shall be established in previously disturbed areas only, and no parking will be permitting under oak trees to protect root structures.
- During construction, all litter and / or construction debris shall be picked up daily and properly disposed of at an appropriate site.
- Use of pesticides is forbidden within the work site unless previously authorized by identified resource agencies such as USFWS or CDFG.

- Protocols will be established for situations where previously unidentified protected species are found onsite during project activities including an agency contact list for proper notification and clearances.
- Construction and design of new access roads will be implemented as such to minimize impacts.

B-8 Comment noted. We refer the commentor to Chapter 3 of this document for appropriate text changes to p. 4.4-8.

B-9 Critical habitat for Otay tarplant is mentioned on p. 4.4-12 under “Critical Habitat for Listed Plant Species.” For inclusion of a discussion of the designated critical habitat for the least Bell’s vireo, we refer the commentor to Chapter 3 of this document for appropriate text changes to p. 4.4-13.

B-10 The following text providing a discussion of coastal bluffs and native grasslands will be added to p. 4.4-35 of the DEIR:

Coastal Bluffs

The Diegan coastal sage scrub community cover steep slopes where soils are shallow and rocky and moisture availability is low. This community often occurs on clay-rich soils that are slow to release stored water. Dominant plant species include low growing soft-woody shrubs such as California sage, coast buckwheat, laurel sumac, black and white sage, and deer broom. Coastal bluff scrub is a sub-community of coastal sage scrub, and is considered a sensitive plant community. Coastal bluff scrub occurs on poorly developed soils of marine terraces on the immediate coast. Many of the same dominant plant species occur in both communities, although several special status plant species occur largely in bluff scrub habitat, including aphanisma, Blochman's dudleya, cliff spurge, and Nuttall's lotus (SANDAG, 2000).

Native Grasslands

Most native perennial grasslands throughout California have been replaced by non-native annual grasslands through a combination of factors including: invasion by exotic plant species pre-adapted to California’s Mediterranean climate; changes in the types of animals present and their grazing patterns; cultivation or other forms of disturbance; and changes in fire regime.

Native perennial grasslands remaining in the San Diego area are quite rare in distribution and are largely unmapped. These grasslands are dominated by perennial bunchgrasses such as purple needlegrass, nodding needlegrass, foothill needlegrass, and deer grass, as well as native herbaceous perennials and annuals including blue-eyed grass, checker mallow, clarkia, and owl’s clover. Dominant species of annual grasslands commonly found in the San Diego area include a mix of grasses such as slender wild oats, ripgut brome, soft chess, rattail fescue, and other opportunistic herbaceous species, such as filaree, bur clover, mustards, cocklebur, and telegraph weed.

B-11 The CPUC does not agree that specific project reviews should require a biological evaluation by a “local” biologist, as numerous biologists may have local knowledge of an area i.e., San Diego County, and be qualified to assess potential impacts on biological resources without physically residing there. The CPUC will, however, revise **Mitigation Measure-1a** on p. 4.4-48 of the DEIR to more extensively define the requirements for specific project reviews as follows:

Sempra Communications shall retain a qualified biologist with local knowledge of the native wildlife and vegetation in the project area to evaluate specific location description, including, as necessary, field assessments of each work plan, and documentation of the findings of this assessment.

B-12 As indicated in the mitigation measure, Sempra will retain qualified biologists. These biologists working for the applicant may stop work at any time as representatives of the applicant or its construction contractors.

Other biologists that may simultaneously be overseeing project activities may represent one of several interests: (1) the CPUC (as third party compliance monitor), or (2) a representative of a state or federal biological agency (CDFG or USFWS), or (3) a local agency (city, county, or public utility). Biologists monitoring on behalf of the CPUC would have the authority to stop work. In the absence of such authority, the standard allowable practice in circumstances where work is at risk of taking a threatened or endangered species is to recommend to the applicant's representatives measures to avoid such risks. The proper chain of authority is from monitor to construction inspector. It is the responsibility of the inspector to act on those recommendations to stay in compliance and avoid a violation. Biologists representing other agencies would likely have authority to stop work in circumstances where work threatened property or facilities owned by the agencies they represent, but would have advisory capacity where work was at risk of harming a threatened or endangered species.

B-13 CPUC will include the following bulleted item as additions to **Mitigation Measure BIO-1c**:

- To minimize impacts of noise, include noise monitoring and barriers as needed.

The recommendation to include elements of revegetation was previously addressed under response **B-3**.

B-14 CPUC will include the following information as an addition to the final bullet under **Mitigation Measure BIO-2a** on p. 4.4-53 of the DEIR:

A qualified wildlife biologist will conduct preconstruction surveys of these areas for aestivation habitat for these species (protocol level surveys or surveys in accordance with guidelines issued by state and/or federal agencies may be required as determined during review of specific work plans).

B-15 The need and size of the required buffer zone around active nests will vary according to the proposed construction activities and the species present in consultation with CDFG and/or USFWS, therefore specific details regarding the size of the buffer zone should not be defined in the Program EIR, but rather the size of the buffer zone should be determined during the review of proposed work plans.

B-16 If construction activities are scheduled during the breeding season, a no-disturbance buffer zone would be established around active nests/roots to avoid potential adverse effects on protected nesting birds and breeding bats. As stated in response **B-15**, the required buffer zone around active nests will vary according to the proposed activities and the species present in consultation with CDFG and/or USFWS. Several breeding birds, i.e. clapper rail and least Bell's vireo, have acoustical sensitivities that will additionally be considered in the establishment of a buffer zone including potentially the requirement for noise monitoring and the creation of noise barriers. The determination for noise monitoring and noise barriers during construction should be determined on a case-by-case consideration by CDFG and/or USFWS of the potential impacts due to the proposed activities. Therefore, the mitigation measure will remain as written, however, the potential requirement has been recognized and will be considered during the specific review period for a work plan.

B-17 The CPUC agrees that there may potentially be proposed construction activities located within paved roads or other highly disturbed ROW where exclusion fencing may be required for burrowing mammals greater than five feet of the work area. Therefore, the final bullet under **Mitigation Measure BIO-4b** on p. 4.4-56 of the DEIR will be deleted. In addition, the following information will replace the deleted text under **Mitigation Measure BIO-4b**:

The need to use exclusion fencing will vary according to the proposed construction activities and the species present, therefore the use of exclusion fencing will be determined by the CPUC in coordination with CDFG and/or USFWS during review of subsequent activities.